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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2011-723**

12 **MICHAEL DOUGLAS REISTAD**
1039 Petra Drive
13 Napa, CA 94559
14 Registered Nurse License No. 708115

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about July 19, 2007, the Board of Registered Nursing issued Registered Nurse
23 License Number 708115 to Michael Douglas Reistad (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought in this Accusation
25 and will expire on August 31, 2011, unless renewed.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)
(Bus. & Prof. Code §§ 2761, subd. (a), 2762, subd. (b))

12. Respondent has subjected his registered nurse license to disciplinary action under Code section 2761, subdivision (a), as defined by Code section 2762, subdivision (b), in that he engaged in unprofessional conduct by using alcohol in a dangerous manner. The circumstances are as follows:

13. On or about June 7, 2008, the Petaluma Police Department set up a sobriety checkpoint in Petaluma, California to screen traffic on the eastbound side of East Washington Street. The Department also designed a cone pattern to prevent drivers from turning left or right from East Washington Street onto Copeland Street. At approximately 1:00 a.m., one of the police officers working at the checkpoint observed Respondent driving eastbound on East Washington, towards the sobriety checkpoint. As Respondent approached the checkpoint, he entered the cone pattern, began to slow down, and then came to a complete stop. Respondent ran into the cone pattern and then turned left onto Copeland Street, running over two cones in the process. The officer got in his patrol vehicle and followed Respondent onto Copeland Street. Respondent turned off his headlights and taillights and continued driving on Copeland Street. The officer initiated a traffic stop based on Respondent disobeying a cone pattern in violation of Vehicle Code section 2818. The officer approached Respondent and obtained his driver's license, proof of insurance, and registration information. Respondent immediately informed the officer that he drove through the cone pattern because he had consumed alcohol and he was afraid he would lose his nursing license. Respondent stated that he had just left a bar in Petaluma and that he had consumed one beer.

14. The officer administered several field sobriety tests to Respondent, which Respondent performed poorly. Respondent submitted to the preliminary alcohol screening device test, which showed that Respondent had a blood alcohol content of .119 percent. Based upon Respondent's objective signs of intoxication and his poor performance on the field sobriety tests, the officer arrested Respondent for driving under the influence of alcohol. The officer advised Respondent

1 of implied consent and Respondent chose the breath test. Respondent was transported to the
2 Petaluma Police Department checkpoint trailer located at the sobriety checkpoint and Respondent
3 voluntarily submitted to a breath test. The results of the first breath test at 1:26 a.m. showed that
4 Respondent had a blood alcohol content of .10 percent. The results of the second breath test at
5 1:30 a.m. showed that Respondent had a blood alcohol content of .11 percent.

6 SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Conviction)

7 (Bus. & Prof. Code §§ 490, 2761, subd. (f), 2762, subd. (c); Cal. Code Regs, tit. 16, § 1444)

8 15. Complainant realleges the allegations contained in paragraphs 12 through 14 above,
9 and incorporates them by reference as if fully set forth.

10 16. Respondent has subjected his registered nurse license to disciplinary action under
11 Code sections 490, 2761, subdivision (f), and 2762, subdivision (c), as well as California Code of
12 Regulations Title 16, section 1444, in that he was convicted of a crime involving the consumption
13 of alcohol which is substantially related to the qualifications, functions, and duties of a registered
14 nurse. Specifically, on or about August 14, 2008, in a criminal proceeding entitled *The People of*
15 *the State of California v. Douglas Michael Reistad*, in Sonoma County Superior Court, Case
16 Number SCR-539640, Respondent was convicted by plea of no contest to one count of violating
17 Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08 or more).
18 Respondent was sentenced to three years of probation and two days in jail. Respondent was
19 ordered to pay fees and fines, be of good conduct and obey all laws, submit to random chemical
20 tests, not drive with any alcohol in his system, and complete a First Offender Drinking Program.

1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)
3 (Bus. & Prof. Code §§ 2761, subd. (a), 2762, subd. (b))

4 17. Respondent has subjected his registered nurse license to disciplinary action under
5 Code section 2761, subdivision (a), as defined by Code section 2762, subdivision (b), in that he
6 engaged in unprofessional conduct by using alcohol in a dangerous manner. The circumstances
7 are as follows:

8 18. On or about June 10, 2010, at approximately 9:13 p.m., an officer with the Napa
9 Police Department responded to a report of a hit and run on Oak Knoll Avenue and Big Ranch
10 Road in Napa, California. After being rear-ended by Respondent, the victim of the hit and run
11 followed Respondent's vehicle. When the officer arrived at the scene, Respondent's red Jeep
12 Cherokee was stopped on Oak Knoll Avenue and Respondent was sitting in the driver's seat. As
13 the officer spoke to Respondent, he noticed a strong odor of alcohol and observed that
14 Respondent's eyes were red and watery. The officer administered a series of field sobriety tests
15 to Respondent, which Respondent performed poorly. Respondent consented to a preliminary
16 alcohol screening (PAS). The results of the first PAS test at 9:51 p.m. showed that Respondent
17 had a blood alcohol content of .10 percent. The results of the second PAS test at 9:52 p.m.
18 showed that Respondent had a blood alcohol content of .11 percent. The officer arrested
19 Respondent for driving under the influence and also for hit and run. After waiving his Miranda
20 rights, Respondent told the officer that he did not recall being in an accident. The officer
21 explained to Respondent that the victim of the hit and run reported that he was rear ended by
22 Respondent, and that Respondent fled the scene. Respondent again denied that the accident took
23 place. When asked how his vehicle had sustained damage to the front end, Respondent stated
24 "that's the million dollar question." Respondent told the officer that he had consumed one small
25 bottle of Pacifico beer at 4:30 p.m. Respondent took the evidential portable alcohol system test at
26 10:26 p.m. and again at 10:29 p.m. The results of both tests showed that Respondent had a blood
27 alcohol content of .11 percent.
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1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Conviction)

3 (Bus. & Prof. Code §§ 490, 2761, subd. (f), 2762, subd. (c); Cal. Code Regs, tit. 16, § 1444)

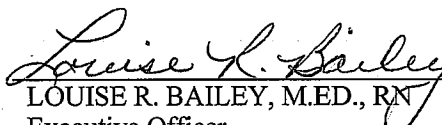
4 19. Complainant realleges the allegations contained in paragraph 17 and 18 above, and
5 incorporates them by reference as if fully set forth.

6 20. Respondent has subjected his registered nurse license to disciplinary action under
7 Code sections 490, 2761, subdivision (f), and 2762 subdivision (c), as well as California Code of
8 Regulations Title 16, section 1444, in that he was convicted of a crime involving the consumption
9 of alcohol which is substantially related to the qualifications, functions, and duties of a registered
10 nurse. Specifically, on or about September 9, 2010, in a criminal proceeding entitled *The People*
11 *of the State of California v. Michael Douglas Reistad*, in Napa County Superior Court, Case
12 Number CR 152800, Respondent was convicted by plea of nolo contendere to one count of
13 violating Vehicle Code section 23152, subdivision (b) (driving under the influence with a blood
14 alcohol level of .08 or more), a misdemeanor, with the additional allegation that within ten years
15 of committing that offense, Respondent was convicted of violating Vehicle Code section 23152,
16 subdivision (b). On this same date and in the same matter, Respondent was also convicted by
17 plea of nolo contendere to one count of violating Vehicle Code section 20002, subdivision (a)
18 (failing to stop after being involved in an accident involving damage to property), a misdemeanor.
19 Respondent was sentenced to three years of formal probation and 25 days in jail. Respondent was
20 also ordered to: (1) pay various fees and fines; (2) not operate a vehicle with any measureable
21 amount of alcohol in his blood; (3) submit to a blood, breath, or urine test if requested by any law
22 enforcement officer or probation officer; (4) complete an 18 month drinking driver program; and
23 (5) not operate a motor vehicle for one year unless it is equipped with a functioning, certified
24 ignition interlock device.
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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
3 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:
4 1. Revoking or suspending Registered Nurse License Number 708115, issued to
5 Michael Douglas Reistad;
6 2. Ordering Michael Douglas Reistad to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;
9 3. Taking such other and further action as deemed necessary and proper.

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12 DATED: 2/23/11


LOUISE R. BAILEY, M.Ed., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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